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HUMAN RIGHTS COMMITTEE
Fifty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Libyan Arab Jamahiriya

1. The Committee considered the second periodic report of the Libyan Arab Jamahiriya (CCPR/C/28/Add.16) at its 1275th, 1276th, 1376th and 1377th meetings on 26 October 1993 and 28 October 1994 and adopted[1] the following comments:

A. Introduction

2. The Committee welcomes the opportunity to renew its dialogue with the State party after fifteen years have elapsed between the consideration of the Government's initial report and the submission of its second periodic report. The Committee, however, regrets this considerable delay in the submission of its second periodic

[1] At its 1384th meeting (fifty-second session), held on 3 November 1994.

report. The Committee regrets also that the reporting guidelines have not been met. The report does not give sufficient information about the restrictions or limitations imposed on rights or about factors and difficulties affecting the enjoyment of rights and the implementation of the Covenant in the Libyan Arab Jamahiriya. In addition, the report lacks information about abuses affecting human rights in the country which have been acknowledged even by the Head of State; and also about administrative and other measures adopted to give effect to the rights provided for in the Covenant.

3. The Committee welcomes the additional written information provided by the Libyan authorities to reply to the questions raised by the members of the Committee during the first part of the consideration of the report in October 1993, while regretting that the late submission of that information did not make it possible to have the document available in all the working languages of the Committee. The Committee takes note with satisfaction of the efforts made by the Libyan Government to reply to its questions and to clarify certain issues, both in writing and orally through the Government's representatives. Those efforts clearly indicate the willingness of the Government to continue the dialogue with the Committee.

B. Factors and difficulties affecting the implementation of the Covenant

4. Among the factors affecting the implementation of the Covenant, the Committee notes economic difficulties and the existence of extremist movements. The Committee also notes that the embargo on air travel, imposed by the Security Council on the Libyan Arab Jamahiriya since April 1992, is considered by the Libyan Government as a difficulty affecting the implementation of certain provisions of the Covenant.

C. Positive aspects

5. The Committee notes with satisfaction that the Covenant is part of the domestic law of the Libyan Arab Jamahiriya and that certain aspects of the Covenant have been included in the Great Green Charter of Human Rights of the Jamahiriyan Era (1988), in the Promotion of Freedom Act of 1991 and in the draft Constitution. It welcomes the fact that the Covenant has been published in the Official Bulletin and publicised in the media, while noting that the information provided to the Committee was not sufficient to clarify the precise application of the Covenant provisions or of the practical steps open to people to enforce rights or to obtain remedies in case of violation.

6. The Committee also notes with satisfaction the measures taken in the Libyan Arab Jamahiriya to overcome discriminatory attitudes against women and the initiatives introduced in the country to advance women's rights, to ensure their greater involvement in public life, and to improve women's equality in employment and in marriage.

7. The Committee further welcomes the information in the report about the release of certain political and other prisoners, the demolition of certain prisons, the cancellation of the lists of persons banned from travelling, and the proposed abolition of the special courts.

D. Principal subjects of concern

8. The Committee is seriously concerned that although the report mentions the objective of eliminating the death penalty, a large number of offences remain punishable by the death penalty in the Libyan Arab Jamahiriya, including economic crimes and other crimes which appear to go beyond the limitations of article 6(2) of the Covenant. The Committee deplores that there appears to be an increase in the number of executions in the last year.

9. The Committee is seriously concerned at information it has received from United Nations and other reliable sources concerning summary or extra-judicial execution and torture perpetrated by the Libyan security forces. It deplores the introduction of cruel punishments such as flogging and amputation. The practice of arbitrary arrest and detention, the detention of persons sentenced after unfair trials and the length of pre-trial detention are also matters of serious concern. The Committee regrets the lack of information about certain identified people who are said to be held in incommunicado detention without trial for lengthy periods and of persons who oppose the government and are said to have disappeared.

10. The Committee is also concerned at certain restrictions imposed in the Libyan Arab Jamahiriya to the rights of opinion, the freedom of expression, the right of assembly and the right to freedom of association, which are not in conformity with articles 19, 21 and 22 of the Covenant. These restrictions also unduly limit the rights to participate in the conduct of public affairs, including the opportunities to criticise and to oppose the government.

11. Lack of information makes it difficult for the Committee to assess the effectiveness in practice of safeguards protecting the rights of detainees and of those charged with criminal offences. The lack of independence of the legal profession and doubts about the openness and fairness of trial procedures remain concerns of the Committee.

12. In regard to women the Committee remains concerned about their lack of equality in certain areas of law such as inheritance rights and nationality. It also regrets the lack of specific information concerning the equality of women.

13. Another area of concern is that of freedom of religion. The severe punishments for heresy (which are said not to have been used) and the restrictions on the right to change religion appear to be inconsistent with article 18 of the Covenant.

The lack of provision for conscientious objection to military service is another concern.

14. A general concern of the Committee is that in regard to many of the rights under the Covenant the basic law allows for broadly defined exceptions to these rights and no information has been provided as to the way in which those exceptions have been incorporated in specific laws or as to wether their application is in conformity with the Covenant .

E. Suggestions and recommendations

15. The Committee encourages the State party to take the necessary steps to adopt legislative or other measures to give effect to the rights recognized in the Covenant, as provided for by article 2, paragraph 2 of the treaty. The Committee emphasizes that these rights represent minimum standards of universal application. This will require a detailed examination of specific laws and practices to ensure that they are fully consistent with the Covenant and do not impose limitations on rights other than those permitted by the Covenant.

16. Noting the statement in the report that the objective of Jamahiri society is to abolish the death penalty, the Committee encourages the State party to move forward with its plans to abolish the death penalty so that it may adhere to the Second Optional Protocol to the Covenant.

17. The Committee calls on the Libyan Arab Jamahiriya to investigate all allegations of summary or extra-judicial execution, disappearances, torture and incommunicado detention, including those referred to by the Committee and to ensure that those responsible for violations of articles 6, 7 and 9 of the Covenant are prosecuted and that appropriate remedies are provided to the victims. It should implement effective measures to prevent further violations of those provisions of the Covenant, to ensure that the rights of detainees are respected and that the requirements of fair trial are met.

18. The Committee recommends that the State party reviews its laws which impose limitations of freedom of opinion, expression, association and assembly, to ensure that the restrictions on those freedoms conform to the limits permitted under article 19, 21 and 22 of the Covenant.

19. The Committee urges the State party to continue with its programmes to secure full legal and de facto equality for women in all aspects of society. It should also ensure that its obligations to respect freedom of religion in accordance with article 18 of the Covenant are met. In this connection, the Committee draws attention to its general comment on article 18 of the Covenant.

20. The Committee finally recommends that more detailed information about specific laws and more concrete and factual information about the enjoyment of rights be provided by the Libyan Arab Jamahiriya in its next periodic report so as to enable the Committee to clearly understand the progress made in the implementation of the Covenant in the State party.

21. The Committee urges the State party to discharge, in future, its reporting obligations under article 40 of the Covenant in a more timely basis.